

Calendar No. 109

110TH CONGRESS } 1st Session }	SENATE	{ REPORT 110-44
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A BILL TO WAIVE APPLICATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT TO A SPECIFIC PARCEL OF REAL PROPERTY TRANSFERRED BY THE UNITED STATES TO 2 TRIBES IN THE STATE OF OREGON, AND FOR OTHER PURPOSES

APRIL 10, 2007.—Ordered to be printed

Mr. DORGAN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 375]

The Committee on Indian Affairs, to which was referred the bill, S. 375, a bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE

S. 375 would waive application of the Indian Self-Determination and Education Assistance Act to the transfer of a specific parcel of real property by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon; direct the Secretary of the Interior to issue a new deed that will not include any reversionary interest or restriction on the right to alienate the property; and prohibit gaming on the property.

BACKGROUND

The parcel of real property at issue in S. 375 was historically used by the United States as part of the Chemawa Indian School campus in Keizer, Oregon. The parcel of real property was included in land transfers by the United States in 1973 and 1974 to the State of Oregon for use for highway and associated road projects. These road projects were completed, and in 1988 the Oregon Department of Transportation deeded the remaining acreage back to the United States. The United States, no longer having a use for the property, determined it would be most appropriate to transfer

the property to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon for economic development and other purposes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

In 2002, the United States transferred approximately 19.86 acres of land formerly used for the Chemawa Indian School to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon. The land transfer to the tribes was executed via quitclaim deed and under the authority of the Indian Self-Determination and Education Assistance Act, which required the United States to include a reversionary clause in the deed whereby title to the parcel would revert back to the United States in certain circumstances. The deed was dated June 18, 2002, and recorded in the public records of Marion County, Oregon, on June 19, 2002.

As indicated in a letter dated July 7, 2006, from the Acting Northwest Regional Director of the Bureau of Indian Affairs to the Honorable Delores Pigsley, Chairman of the Confederated Tribes of the Siletz Reservation, the United States intended for the tribes to freely and fully develop the property. The reversionary clause in the deed, however, has created financing difficulties for the tribes and prevented full development of the parcel of land. S. 375 is intended to eliminate the reversionary interest of the United States in the parcel so that the tribes may fully utilize the land for non-gaming economic development purposes.

The United States does not desire the return of the parcel of land and does not intend under any circumstances to take action to seek return of the property. In reliance on this intent, the tribes have committed over \$2.5 million to infrastructure improvements to the parcel, and have approved plans to further develop the property for economic purposes, the realization of which is dependent on the ability of the tribes to secure conventional financing. The parcel of land is an integral component of a major commercial development advocated by the City of Keizer in Oregon, where the property is located. The tribal property development master plan includes development of a gas station, restaurants, retail space and flex office space.

By waiving the application of the Indian Self-Determination and Education Assistance Act to the transfer of the property, S. 375 will clear title to the parcel of land and allow the tribes to obtain conventional financing from commercial lending institutions and realize the full commercial potential of the property. S. 375 contains an express prohibition on using the property for gaming purposes. The waiving of the application of the Indian Self-Determination and Education Assistance Act applies only to the transfer of the property and is not intended to impede or prevent the two tribes from utilizing the property for any purposes under that Act.

LEGISLATIVE HISTORY

S. 375 was introduced on January 24, 2007, by Senator Gordon Smith and Senator Ron Wyden, and was referred to the Committee on Indian Affairs. On February 8, 2007, S. 375 was unanimously passed out of the Committee and ordered to be reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On February 8, 2007, the Committee, in an open business session, considered S. 375. By a unanimous voice vote, the Committee ordered the bill to be reported favorably to the full Senate with the recommendation that the bill do pass.

SECTION BY SECTION ANALYSIS OF S. 375

Section 1. Findings

Section 1 provides findings supporting the intent of the bill, including that the parcel of land described in the quitclaim deed is approximately 19.86 acres of land originally used as part of the Chemawa Indian School; that the United States does not desire the return of the parcel and does not intend under any circumstances to take action to seek return of the parcel; and that in reliance on this intent, the tribes have committed over \$2.5 million to infrastructure improvements to the parcel, and have approved plans to further develop the parcel for economic purposes, the realization of which is dependent on the ability of the tribes to secure conventional financing.

Section 2. Waiver of application of Indian Self-Determination and Education Assistance Act to the transfer of property

Section 2(a) states that the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the transfer of real property deeded by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of the Grand Ronde Community of Oregon by quitclaim deed dated June 18, 2002.

Section 2 (b) directs the Secretary of the Interior to issue a new deed that does not include any restriction on the right to alienate the parcel or any reference to any provision of the Indian Self-Determination and Education Assistance Act.

Section 2(c) prohibits conducting Class II gaming and Class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on the property.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office cost estimate for S. 375 is set forth below:

FEBRUARY 20, 2007.

Hon. BYRON L. DORGAN,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 375, a bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to two Indian tribes in the state of Oregon, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel S. Hoople.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

S. 375—A bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to two Indian tribes in the state of Oregon, and for other purposes

S. 375 would direct the Secretary of the Interior to issue a new deed to the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community of Oregon, exempting approximately 20 acres of land currently owned by the tribes from provisions of the Indian Self-Determination and Education Assistance Act. CBO estimates that enacting S. 375 would have no significant impact on the federal budget.

S. 375 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the two tribes.

In June 2002, the federal government transferred approximately 20 acres of land to the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community of Oregon. S. 375 would direct the Secretary to reissue a deed for the land that waives provisions of the Indian Self-Determination and Education Assistance Act related to the use of that property. Because the land in question is not currently owned or held in trust by the United States, CBO estimates that enacting the bill would have no significant effect on the federal budget.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee has concluded that the regulatory and paperwork impacts of S. 375 should be minimal.

EXECUTIVE COMMUNICATIONS

The Committee has not received official executive communications on S. 375.

CHANGES IN EXISTING LAW

S. 375 will not make any changes to existing law.